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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,123	07/28/2003	Rodney L. Blair	BLAIR	3082

7590 08/25/2006

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EXAMINER

WINNER, TONY H

ART UNIT PAPER NUMBER

3611

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/628,123	Applicant(s) BLAIR, RODNEY L.	
	Examiner Tony H. Winner	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/21/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Acknowledgment

1. Receipt of an amendment and Affidavit filed 3/21/06 has been acknowledged and entered. The office is withdrawing all objection and claims rejections in view of the Affidavit claiming priority date to a Provisional Application Ser. 60/307,474 dated July 25, 2001. The Provisional Application has a filing date that is prior to the filing date of Hume patent which was used in the rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of claim 1, "large inflatable tubes" is unclear. Since the word 'large' is a relative term, the structure must clearly be defined in relation to another structure (e.g. larger than what other inflatable tubes..). The office suggests the word "large" be deleted to overcome this rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3611

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hertelendy (USPN. 2,909,145).

Hertelendy discloses all of the structure as claimed, the vehicle comprising:

- a. a pair of circular tubes (28, 29) mounted in parallel, spaced relation and joined by a supporting structure (figure 1),
- b. said supporting structure serving to carry a load including a seating for at least one human and having its center of gravity supported below the axis of the tubes,
- c. the supporting structure carries at least one motor for driving the tubes.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 9-10, and 14-15 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Hertelendy in view of Berg (US-PUBNO. 2002/0011368 A1).

Hertelendy is disclosed above but silence with regard to a means to drive the tubes independently.

Berg discloses a self-propelled drive vehicle including a means to drive the wheels independently with separate motor so as to permit the vehicle making turns.

Based on the teaching of Berg, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle of Hertelendy to include a means to drive the wheels independently of Berg so as to provide the vehicle with means to making turns.

With regard to claims 2 and 15, Hertelendy as modified by Berg discloses all of the claimed limitations.

With respect to claim 3-6, Hertelendy as modified by Berg discloses the claimed invention but lacks the teaching of any specific spokes structure/design. However, applicant acknowledged that the spokes structure/design is an obvious alternative. Therefore, it would have been an obvious alternative/design choice to make the spokes of metal, wire, or inflatable tubes.

5. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hertelendy as modified by Berg and further in view of Quigg.

Hertelendy as modified by Berg is disclosed above but lacks the teaching of a means for remotely controlling the vehicle.

Quigg discloses a stair-climbing wheelchair wherein the wheelchair includes a remote control so as to provide a wide range of usefulness for the wheelchair such as unmanned device used to traverse obstacles or in mine field cleaning operation. Based on the teaching of Quigg, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle of Hertelendy as modified by

Berg to include the remote controller of Quigg so as to provide a wide range of usefulness for the wheelchair such as unmanned device used to traverse obstacles or in mine field cleaning operation.

Allowable Subject Matter

6. Claims 7 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (571) 272-6654. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. The fax phone number for the organization where this application or proceeding is (571) 273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

Art Unit: 3611

have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6584.



TONY WINNER
PATENT EXAMINER

August 21, 2006